

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**David Lee Neeley,  
Petitioner,**

**-V-**

**Case No. C-1-02-520  
Judge Weber  
Magistrate-Judge Black**

**Harry Russell, Warden,  
Respondent.**

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**PETITIONER'S MOTION FOR EXTENSION OF TIME  
TO FILE OBJECTIONS TO MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

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Comes the Petitioner, by counsel, and moves the Court for an extension of time to February 17, 2005, within which to file his objections to the Report and Recommendations filed by the Magistrate Judge on December, 30, 2005 (Doc. 32) for the reasons set forth below.

s/Keith A. Yeazel

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**MEMORANDUM IN SUPPORT**

Petitioner's counsel spoke with Assistant Attorney General Stuart Cole on January 4, 2006 and he has no objection to extending the time in which to file objections to February 17, 2006.

On December 16, 2005, the Magistrate Judge filed his Report and Recommendations, recommending denial of the Motion for Relief from Judgment. A deadline for filing objections has been set for January 17, 2006. Pre-existing schedules and commitments to other cases prevent the undersigned counsel from being able to adequately prepare objections and comply with the specificity requirement of 28 U.S.C. §636(b)(1)(c) and the case law interpreting that provision. More specifically, counsel has a post evidentiary hearing brief due in the capital habeas case of Carter v. Mitchell pending in the Southern District on January 11, 2005. Counsel has to also has to file objections to a 122 page Report and Recommendation in the capital habeas case of Palmer v. Bagley due on February 6, 2006. Counsel also has a brief due in the case of United States v. Smith pending before the Sixth Circuit.

Although counsel has begun review of the Magistrate's Report and Recommendations and the related record and case law, it has become apparent that an extension of time to February 17, 2006, to adequately prepare objections and properly address all of the matters raised in the Report and Recommendations.

Accordingly, Petitioner respectfully requests an extension to February 17, 2006, inclusive, within which to prepare his objections to the Magistrate's Report and Recommendations.

Respectfully submitted,

/s/ Keith A. Yeazel

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TRIAL COUNSEL FOR PETITIONER DAVID NEELEY

**CERTIFICATION**

I hereby certify that I have, this 5<sup>TH</sup> day of January, 2005, served electronically through the Court's ECF System a copy of the foregoing pleading to the following attorneys of record:

Stuart Cole, Esq.  
ASSISTANT ATTORNEY GENERAL  
Corrections Litigation Section, 16<sup>th</sup> Floor  
150 East Gay Street  
Columbus, Ohio 43215

/s/ Keith A. Yeazel

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KEITH A. YEAZEL